

TENTH DAY.

Senate Chamber,
Austin, Texas, Monday, Jan. 23, 1899.
Senate met pursuant to adjournment.
Lieutenant-Governor Browning in the chair.

Roll called. Quorum present, the following Senators answering to their names:

Atlee.	McGee.
Burns.	Miller.
Dibrell.	Morriss.
Goss.	Neal.
Gough.	Odell.
Greer.	Potter.
Grinnan.	Ross.
James.	Sebastian.
Johnson.	Stafford.
Kerr.	Terrell.
Lewis.	Turney.
Lloyd.	Yantis.

Absent.

Davidson.	Stone.
Hanger.	Wayland.
Linn.	Yett.

Absent—Excused.

Patterson.

Prayer by the Chaplain, Rev. Dr. Denson.

Pending the reading of the Journal of yesterday,

On motion of Senator McGee, the same was dispensed with.

EXCUSED.

On motion of Senator Dibrell, Senator Davidson was excused indefinitely on account of important business.

On motion of Senator Gough, Senators Wayland and Linn were excused for today on account of important business.

On motion of Senator Miller, Senator Hanger was excused indefinitely on account of sickness in his family.

On motion of Senator Terrell, Senator Burns was excused from non-attendance last Thursday and Friday on account of sickness in his family.

PETITIONS AND MEMORIALS.

By Senator Terrell:

Petition from citizens of Bowie asking for passage of the "City Court Bill."

Read, and referred to Committee on Towns and City Corporations.

By Senator Gough:

Petition from citizens of Collin county, asking passage of "City Court Bill."

Read, and referred to Committee on Towns and City Corporations.

COMMITTEE REPORTS.

Committee Room,
Austin, Texas, Jan. 20, 1899.

Hon. J. N. Browning, President of the Senate.

SIR: Your Committee on Educational Affairs, to whom was referred

Senate bill No. 52, being a bill to be entitled "An Act to repeal Article 3898, of Chapter 7, Revised Statutes, which transfers one per cent. of the permanent school fund to the available fund,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it *do pass*.

GOSS, Chairman.

Committee Room,
Austin, Texas, Jan. 20, 1899.

Hon. J. N. Browning, President of the Senate.

SIR: Your Committee on Towns and Cities, to whom was referred

Senate bill No. 55, being a bill to be entitled "An Act to establish and create in each of the cities, towns and villages of this State, a State court, to be known as the Corporation Court in such cities, towns and villages, and to prescribe the jurisdiction and organization thereof, and to abolish municipal courts,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it *do pass*.

MILLER, Chairman.

Committee Room,
Austin, Texas, Jan. 23, 1899.

Hon. J. N. Browning, President of the Senate.

SIR: Your Committee on Finance, to whom was referred

Senate bill No. 22, being a bill to be entitled "An Act making an appropriation to pay for publishing the constitutional amendments proposed by the Twenty-fifth Legislature,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it *do pass*.

DIBRELL, Chairman.

BILLS AND RESOLUTIONS.

By Senator McGee:

Senate bill No. 57, A bill to be entitled "An Act to amend Article 200, of Chapter 2, Title VII, of the Penal Code of the State of Texas, adopted at the regular session of the Twenty-fourth Legislature, 1895, excepting certain persons from the operation of Article 199,"

Read first time, and referred to Judiciary Committee No. 2.

By Senator Greer:

Senate bill No. 58, A bill to be entitled "An Act providing for the time within which sales under powers of sale contained in deeds of trust and mortgages must be made,"

Read first time, and referred to Judiciary Committee No. 1.

By Senator Yantis:

Senate bill No. 59, A bill to be entitled "An Act permitting any insurance company organized and doing business on the mutual plan, under the laws of any State of the United States, insuring against loss or damage resulting from burglary, robbery or any attempt thereat, and also insuring against the loss of money and securities in transportation when shipped by registered mail, to do business in the State of Texas,"

Read first time, and referred to Committee on Insurance, Statistics and History.

By Senator Dibrell:

Senate bill No. 60, A bill to be entitled "An Act to amend Article 1188, of Chapter 2, Title XXX, of the Revised Civil Statutes of the State of Texas (1895), relating to amendment of pleadings."

Read first time, and referred to Judiciary Committee No. 1.

By Senator McGee:

Senate bill No. 61, A bill to be entitled "An Act to amend Subdivision 23, of Article 1194, Chapter 4, Title XXX, of the Revised Civil Statutes of Texas adopted at the regular session of the Twenty-fourth Legislature, 1895, relating to the venue of suits against private corporations and railroad corporations and providing for the venue of suits in which two or more railroads, corporations, are defendants."

Read first time, and referred to Judiciary Committee No. 1.

By Senator McGee:

Senate bill No. 62, A bill to be entitled "An Act to amend Subdivision 4, of Article 3050, Chapter 2, Title LVIII, of the Revised Civil Statutes of the State of Texas, requiring the calculations of net value of life and health insurance policies in this State to be based upon the American experience table of mortality and four per cent. interest per annum."

Read first time, and referred to Committee on Insurance, Statistics and History.

Call concluded.

BILLS ON SECOND READING.

The Chair laid before the Senate special order for this hour,

Senate bill No. 14, A bill to be entitled "An Act to amend Subdivisions 1 and 2, Article 1093, Title XV, Chapter 2, of the Code of Criminal Procedure of the State of Texas, relating to attached witnesses, and providing fees for same."

Bill read second time and ordered engrossed.

The Chair laid before the Senate,

Senate bill No. 27, A bill to be entitled "An Act to define 'Legal' and 'Conventional' interest, to create the distinction between the same, and regulate the rate of interest thereof on contracts and judgments, to provide pains and penalties, to prevent usury, and to repeal all laws in conflict with this act."

Bill read second time.

By Senator Yantis:

Amend caption by inserting the words "the term interest and," after the word define.

Adopted.

By Senator Kerr:

Amend by striking out Sec. 3.

Pending which; the bill was read in full at the request of Senator Lewis.

The amendment (Kerr's) was then, Lost.

By Senator Gough:

Amend by striking out Section 8, of the bill and changing the other numbers to conform with this amendment.

Adopted by the following vote:

Yeas—16.

Atlee.	Johnson.
Burns.	Kerr.
Davidson.	Lloyd.
Dibrell.	McGee.
Goss.	Ross.
Gough.	Sebastian.
Greer.	Terrell.
James.	Turney.

Nays—8.

Grinnan.	Neal.
Lewis.	Odell.
Miller.	Stafford.
Morriss.	Yantis.

Absent—Excused.

Hanger.	Yett.
Linn.	Wayland.
Patterson.	

Present and not voting: Senator Potter.

On motion of Senator Burns further consideration of the pending bill (Senate bill No. 27) was postponed until Wednesday morning after morning call.

Hon. N. A. Cravens, Private Secretary of the Governor, was announced by the Door-Keeper.

The Chair laid before the Senate the following

EXECUTIVE MESSAGE.

To the Senate and House of Representatives:

In the discharge of a duty imposed upon me by the Constitution, I submit for your consideration, the following:

THE PUBLIC FREE SCHOOLS.

One of the most important planks in our party platform bears reference to our Educational System, and the pledge is therein made that all legislative assistance necessary will be given to bring the public free schools to the highest possible degree of efficiency, consistent with our financial condition. The platform also pledges the party to the repeal of the law allowing the transfer of any part of the permanent to the available school fund. This provision has my hearty concurrence, and I recommend immediate and favorable action by the Legislature. The permanent school fund should be regarded as a sacred trust, not only by the present, but by all future generations, and its principal should never be diminished to any extent whatever.

In the administration of this great fund, we are now confronted with two very serious difficulties. They, however, are not insuperable, and may be overcome by considerate legislation. It should be premised that it is the bounden duty of the State to make that fund as productive as possible consistent with entire security, thereby meeting the demand of an increasing scholastic population, and at the same time lightly burdening as possible the tax payers of the State, in order to give the people a good and efficient system of public free schools. The Comptroller in his last annual report gives information that there was in the treasury on December first, last, the sum of \$1,134,247.12 to the credit of the permanent school fund which could not be invested because of the inability of the Board of Education to purchase at par county bonds which bear not less than five per cent. interest. Private capital, says the Comptroller, has acquired all such bonds as were desirable, either at a less rate of interest or by paying premiums. In consequence, not only has the Board of Education been unable to invest this portion of the permanent fund, but the amount of this class of securities held for the benefit of the fund has decreased during the past

year by \$344,491.23. With the permanent school fund steadily increasing, the final issue, unless remedial legislation be had, can be easily foreseen. Prompt action is needful. The law which limits the School Board to an investment of the fund in such county bonds as do not bear a rate of interest less than five per cent. should be immediately amended and authority should be given the Board to exercise its discretion in the purchase of such character of securities. I believe that one step further should be taken, and that the Board should be allowed an option by law upon all county bonds to be hereafter issued, such option, however, to expire within a reasonable time after the county authorities shall have notified the Board of the intended issuance of such bonds. If this be not done, the Board will be at a great disadvantage in securing such county bonds as may be desirable, for the reason that private capital will constantly seek such investments. No reasonable objection can be urged by the counties against such legislation. They are directly interested in the safe and constant investment of the permanent fund and should be more than willing to extend every assistance to the Board, especially when they cannot possibly suffer the slightest injury or inconvenience. But this relief, if granted, can only be of a temporary character. It cannot be doubted that the inevitable tendency of the county governments will be to decrease their bonded interest-bearing indebtedness. Any other presumption would imply a want of confidence in the integrity and capacity of the administrators of the county finances. Even with the remedial legislation suggested, the time must come when the county interest-bearing indebtedness of our State will be far less than at present. As such indebtedness shall decrease, the difficulty of investing the permanent fund will increase. This is inevitable. After much thought upon the subject, I am led to the conclusion that next to the bonds of the United States, of our own State, and of our counties, those of very many of the other States of the American Union come in point of safety and desirability.

What is most to be regarded in the investment of the fund is security; then follows interest. I cannot give my sanction to its investment in securities of railroads, either built or to be built. The bonds of more than three-fourths of the States of the Union are at least at par value in all the world's markets. It is not so with those of our railroads.

The great majority of them are not only below par, but their value is con-

stantly fluctuating. Why these conditions exist, it is unnecessary now to discuss. Sooner or later the bonds of other States must and will be recognized by law as a desirable form of investment of our permanent school fund, and recognition, in my judgment, should be given at once. Railroad securities are dangerous and unsatisfactory even to investors who have great financial ability and a thorough and practical acquaintance with the methods that too often characterize those who deal in them. The Board of Education would be but lambs easily to be shorn, were it hardy enough to enter within the halls of the stock and bond market of today.

The other difficulty is of a far more serious character, and also deserves immediate consideration.

The report of the late Commissioner of the General Land Office, Hon. A. J. Baker, and his letter to my predecessor of the 5th inst., show that at the time of the adoption of our present Constitution, there were 75,961,277 acres of unlocated public domain, including all the land and bays embraced within the entire limits of the State. One-half of the public domain was by the Constitution made a part of the perpetual public school fund. The language is so plain that none can mistake its meaning, and it became the duty of the office charged with the administration of our public lands to see to it that this provision of the Constitution was not evaded. The report of the Commissioner (page 4) shows how the public domain has been disposed of since the adoption of the Constitution. In all, and since then, the public school fund has received 23,970,000 acres; and also the proceeds of 4,131,617 acres sold under the acts of July 14, 1879, and March 29, 1887, making the amount received by the school fund since the adoption of the Constitution 28,101,617 acres. This, according to the Commissioner's report, leaves a deficit of 9,879,021 acres due the school fund. On the other hand, there have been alienated since the adoption of the Constitution for other purposes, 44,006,966 acres, and it is estimated that only 3,853,694 acres of the unlocated public domain remain to meet the deficiency of 9,879,021 acres due the public school fund. Added to this embarrassment, a cloud is thus cast upon the titles of many people who have in good faith made and acquired homestead interests, to say nothing of other locations equally deserving protection from the government.

The late Commissioner submits two methods of solving the difficulty. One is to provide for the appointment of ex-

perienced clerks to take out and tabulate all files since the foundation of the government, located under every authority whatever. This suggestion is made upon the hypothesis that when the last file shall have been reached, which will show that one-half of the public domain had been exhausted, only those titles to locations thereafter made would be affected. If the Commissioner's supposition should prove true, then every title thereafter made by the government would come within the rule enunciated in the Hogue case. If this policy in reference to the settlement of the question should be adopted, it will be readily perceived that it would require a considerable length of time and much labor, attended with large expense, to accomplish the work. In the meantime, the title to the vast amount of located lands would remain unsettled.

The other method proposed by the Commissioner is that the State should make good the deficiency to the permanent school fund by transferring to that fund the remainder of the unlocated public domain, to-wit: 3,853,694 acres; the railway recoveries, to-wit: 1,389,000 acres; and the proceeds of the sale of 4,131,617 acres under the Acts of July 14, 1879, and March 29, 1887. This, with the one-half interest of the school fund in the area of the bays of the State, amounting to a total of 1,733,880 acres, would give to the public free school fund an excess of about 362,230 acres over and above one-half of the unlocated public domain at the time of the adoption of the Constitution. It will be observed that should this plan of settlement be adopted, it would require the assumption by the State of an indebtedness to the permanent school fund equal to the proceeds of the sale of 4,131,617 acres under the Acts of July 14, 1879, and March 29, 1887, to-wit, \$900,865.61.

In this connection, I desire to invite the attention of the Legislature to the case of Hogue vs. Baker (May 23rd, 1898), wherein it will be perceived that the Supreme Court does not undertake to determine whether one-half of the entire public domain, as it then existed, was appropriated by the Constitution to the public free schools, or whether one-half of the remainder, after deducting the 3,050,000 acres set apart for the capitol and the 1,000,000 acres allotted to the University, was so appropriated. The question as to how these lands are chargeable under the Constitution must be an important factor for consideration in the settlement of the question.

I am not able to express an opinion as to the accuracy of the data given by the Commissioner, but assume them to be cor-

rect. His conclusion as to the deficit due the school fund seems to rest, in part, upon the theory that the capitol and University lands are chargeable only to the one-half of the public domain reserved to the State for general purposes.

Unless something be done very many of our people will suffer irreparable injury. My attention has been called especially to the distressing condition in which the towns of Plainview and Lockney, in the counties of Hale and Floyd, respectively, and the "Cottonwood Settlement" in Dickens county, with their contiguous territory, are left under the decision in the Hogue case. All of them are flourishing communities, settling upon, purchasing and improving their lands in good faith and believing that they were acquiring a perfect title from the State. These are only a few of the very many instances that might be given of the severe and perhaps fatal hardship, which the purchasers of the public domain, since the adoption of the Constitution, will undoubtedly suffer, if relief be not granted. It is unquestionably the duty of the State to make good the deficit in the school lands. The method of settlement is a question of legislative policy; but the amount due the school fund as shown by whatever method of determining that fact the Legislature may adopt, should be at once discharged. It is immaterial as to the particular class of persons who may be affected by an accounting with a view of determining the exact locations that overbalance the equitable division demanded by the Constitution. The State's legal and moral obligation to such persons to make good the title to lands disposed of by it in a regular manner and in good faith should be scrupulously executed. The State cannot afford to call in question the titles to the homesteads of its citizens, whether acquired directly or indirectly through the action of its legally authorized agents, except in cases of palpable fraud. If settlement of the amount due the school fund be effected by an accounting with a view of ascertaining the exact location that overbalanced the State's half of the public domain and bringing suit against the holders of lands located thereafter for an equitable division of such lands, the loss would undoubtedly fall heaviest on the owners of homesteads. The grants made to railroad companies, the Texas veterans and others, and also the locations made under sales of public domain, as provided by law, where no alternate survey was at the time located for the common school fund, would, in a great measure, if not altogether, escape suit under the method

of accounting suggested by the Commissioner and could not be recovered.

I therefore recommend that the Legislature appropriate all of the unappropriated public domain in payment of its obligation to the school fund, and that if there be not a sufficient amount of unappropriated public lands to discharge said obligation, that the State assume the balance of the debt and issue its obligations therefor. In this way, the duty imposed by the Constitution on the legislative and executive authorities to carefully and jealously guard the school fund as a sacred trust, can be performed and all questions relating to the validity of land titles, so far as the State is concerned, will be forever settled.

THE ELEEMOSYNARY INSTITUTIONS.

There are some features in the administration of our eleemosynary institutions, including the Confederate Home and the Reformatory, which, in my judgment, should receive immediate and careful consideration. The appropriation act makes provision for the payment of their officials and employes, and one would suppose that their emoluments are limited to their salaries, as expressed in the law. I am informed, however, that such is not the case, but that quite a number of such officials and employes enjoy perquisites without any authority whatever in law, and that they use the public funds and stores for the support of themselves and their families, except for clothing, without any warrant for so doing other than a custom which has existed for many years. If this be so, the practice should be immediately terminated. If such perquisites be allowed by law, the policy is a most vicious one, but if they abound only in custom, then it is reprehensible in the extreme. Public money and public property should never be expended or used unless with the express sanction of law. The system is absolutely indefensible, however, it may be viewed, and if persisted in will inevitably lead to the most flagrant abuse. To illustrate: an official or an employe may, under such a practice receive a salary of \$1000 or \$2000, while the value of his perquisites may be as large, if not larger, depending entirely upon the number in his family and their disposition for extravagant living and social entertainment. Perquisites should not be allowed under any circumstances, and I know of no other government that permits them. If the salary of an official or an employe be insufficient to secure the best service, then it should be increased in an open and direct manner. It should be nominated in the law and the amount

fixed, and beyond the amount fixed he should not be permitted to go. Again, the policy obtains for each of these institutions to buy its own supplies partly after advertisement and from the lowest bidder and partly through private purchase. From my observation and experience elsewhere, I am strongly of the opinion that this method is not only extravagant, but it oftentimes leads to practices that are corrupt and will not bear exposure. I am also informed that it very frequently happens that the supplies advertised for and furnished do not prove sufficient in amount to meet the necessities of the institutions and that the balance needed is obtained through private purchase and at retail figures. It will be perceived upon a moment's reflection that these methods do not rest upon sound business principles, and that they put the State at a great disadvantage. Purchases to the fullest extent practicable should be made in the open market and after due advertisement, and those made privately should be reduced to the minimum point and confined to perishable articles. Supplies for all the institutions should be purchased by one person and in bulk, so far as may be practicable, and the successful bidder should be required to deliver to each institution and in such quantity as may be needed, and to furnish additional supplies of the same character and at similar prices, should the amount advertised for not prove sufficient.

If the policy herein suggested should meet with your approval, I am quite confident that the present number of officials and employes at these institutions can be reduced, and that the supplies can be obtained at at least fifteen per cent. below their cost as heretofore. I therefore recommend that the office of steward in each of these institutions and of quartermaster in the Confederate Home be abolished, and that of purchasing agent be created, with a salary of \$2000 per annum, without any other emoluments, and that he be required to purchase all supplies for the institutions named, and to execute bond in a sufficient amount for the proper performance of his duty. He should be assisted by two clerks at a salary of \$1000 each and he should have a contingent fund for his office of \$500 per annum for stationery and traveling expenses. There should also be provided for each of the institutions a store-keeper and general accountant at a salary not to exceed \$900 per annum and without any other allowances. In the majority of these institutions, I understand there is already a store-keeper. When it is considered that the annual purchases for

all these institutions exceed \$370,000, the importance of their administration on sound business principles becomes quite apparent. The public service should realize one hundred cents on every dollar contributed by the people for the purpose.

THE INSANE.

From the best information that I have been able to obtain, I am led to believe that there are at least one thousand insane people in the jails, upon the poor farms, and under private care and restraint in the State. The situation in this respect is sad and distressing in the extreme and I feel that a suggestion only of the subject is necessary to insure an immediate and adequate response from the Legislature.

After correspondence with those in whose skill, experience and judgment I have great confidence, and who are thoroughly acquainted with the present conditions, I am led to believe that the wise policy at this time would be to increase the accommodation at the asylums already constructed. It would not only be the more economical plan, but it would afford earlier relief.

I have therefore to recommend that suitable appropriations be made to erect an annex to the Terrell Asylum for two hundred and fifty female patients, and to so increase the accommodations at the Austin and San Antonio asylums that the former will be able to care for three hundred additional patients, and the latter to maintain in all one thousand patients. If this be done, it will obviate the necessity for the construction of another asylum, with the increased expense of supervision that would necessarily follow. As soon as the finances will permit, provision should be made for the separation of the epileptics from all other insane persons, and a mode of treatment and care quite different from that now given.

WHITECAPISM.

This offense is denounced in strong and unmeasured terms by the Democrats of Texas in their State platform, and justly so. It is a constant menace to peace and order, and whenever indulged in, leads to murder, arson, robbery and other forms of violence. While not more prevalent in our State than in some other sections, perhaps not so much so; yet it must be confessed that its occurrence within our borders has become alarmingly frequent. There can be no excuse whatever for this character of lawlessness. It is cowardly and brutal, availing itself of the darkness of the night, and

of the power coming from the union of the many against the few and of the strong against the weak. It destroys property while the owner is asleep, or has been driven from his home through threats reaching him from a hidden and unknown source. It is closely akin to willful, cold-blooded and cowardly assassination, and he who shall engage in such wanton violence should be made to suffer speedy and severe punishment. If guilty, there should be no escape from the law's severest penalty. Every citizen is entitled to the most complete protection, both as to person and property, and the power and sovereignty of the State stands pledged to his security, not only from actual harm, but also from intimidation of whatever kind or for whatever purpose.

I earnestly recommend prompt and appropriate action upon the subject.

THE TAX COMMISSION.

By virtue of the pledge made by the late Democratic State Convention, it is incumbent upon the Legislature to establish a commission to consist of the Governor, Comptroller, and State Revenue Agent, whose duty it shall be to formulate measures looking to a fair and equitable imposition of taxes and to their more certain and economical collection, and also to a better and safer system for the holding and disbursement of the public money, and to report the same to the Legislature for its consideration. Beyond all question, no subject of greater importance can be addressed to the legislative discretion. No one can read the very able report of the late State Revenue Agent, and also the reference to the inequalities of railway taxation, as shown on pages 15 and 16 of the report of the Railroad Commission, without being most deeply impressed with the urgent necessity of legislative action in the direction indicated. Our present system of taxation is mere patch-work. The cost of levying and collecting taxes is entirely too heavy, and the mode of caring for and disbursing the public funds without sufficient safeguards. That there have not hitherto been serious defalcations has been due solely to the integrity of the revenue officials. It may be safely said that there is no protection whatever to the treasury against a conspiracy by those charged with the disbursement of the public funds for its robbery. If an equitable system of taxation, falling upon every one in proportion to the value of his estate—real, personal and mixed—could be instituted, and if its certain collection could be insured at a reasonable charge, it cannot be doubted that the

present rate of ad valorem taxation could be greatly reduced without detriment to the public service. It is beyond the power of successful contradiction that very many and large holdings annually escape taxation through the inefficiency of the present system. This inequality operates with great injustice to the honest taxpayer, and causes the burden of government to fall with undue weight upon the landed interests of the State.

I recognize and appreciate the difficulty of imposing a just and equitable system of taxation so that no person and no interest can escape the duty of a ratable contribution to the support of the government, but it is entirely within the legislative capacity to very greatly improve the method now in force, and I most urgently recommend the enactment of a law providing for a tax commission charged with the duty of preparing and reporting to the Legislature a system of uniform and equitable taxation, and of efficient and economical enforcement, and also a method of disbursement of the public funds that will provide the necessary safeguards against misuse, fraud and embezzlement. An appropriation of about six hundred dollars should be made to meet such expenses as are necessary to be incurred.

In addition, I also recommend the enactment of a law, designating June thirtieth as the end of the fiscal, scholastic and appropriation years, and that it shall apply to every State official, board and institution upon whom is devolved the duty of making a report. This will insure uniformity and harmony of action in all the departments.

In addition to the foregoing measures, I have also to advise the enactment of a law which forbids any official or employee—Federal, State, county or municipal—becoming interested directly or indirectly in any contract with the State government or with any of its branches. Such inhibition is one of the necessary means by which the purity of the public service can be maintained, and most strongly appeals to the legislative judgment.

THE RAILWAY COMMISSION.

This branch of the public service will, I doubt not, receive the attention which its importance demands.

As it is altogether independent of the executive and directly responsible to the Legislature and the people, I can only commend its recommendations to a most careful consideration, with the assurance that whatever legislation may be needed to strengthen it and will add to its efficiency shall have my most cordial support.

In a communication to myself from the Commission, of the 19th inst., and accompanied by one from the Attorney-General, I am advised of the pendency of ten different suits against the Commission in the Circuit Court for the Western District of Texas, and am requested to ask an immediate appropriation by the Legislature of thirteen thousand five hundred dollars, twelve thousand dollars of which is to be expended by the Attorney-General in the employment of additional counsel to assist in the defense of these suits, the taking of testimony and in the payment of all other expenses that may be necessary and proper until their final determination. The remainder, to-wit: fifteen hundred dollars, I am informed, is to enable the Commission to have the necessary investigation made by experts and extra employes for the collection of evidence necessary for the State in these cases.

In view of the very great importance of securing decisions favorable to the State in all of the suits, I earnestly recommend that the appropriation be made as early as may be practicable. The counsel should be selected and be employed by the Attorney-General, with the consent of the Commission, and should be required to act under his directions until the conclusion of the controversy. I am also advised by the Commission that the time for taking testimony in the cases will begin on the first proximo, that the facts involved are numerous, the principles important, and the interests of the State in the result so great as hardly to be estimated. The character of these suits, the circumstances under which they were brought and the nature of the orders already made by the judge, in whose court they are to be first heard, are so well known that I need not say further than that, in my judgment, the Commission and the Attorney-General should promptly receive the assistance they desire from the Legislature. The Attorney-General is so pressed with other duties, many of which are not strictly germane to his office, that it is an impossibility for him to give these cases the proper attention. He will have against him an array of counsel whose skill, ability and experience have put them in the very front rank of the profession.

THE PENITENTIARIES.

While the system of maintaining the convicts is, as an entirety, more than self-supporting, yet it is not so with the penitentiaries themselves. An examination of the official reports shows that, for eight years past, each of the penitentiaries has been during that period,

and is now, from a financial standpoint, a losing institution—the one at Rusk being by far the greater loser. Had it not been for the State and share farms, the contract farms and the railroad forces, it would have been necessary to draw very heavily upon the treasury, every year, to supply the deficit at both penitentiaries.

According to the reports of those in charge of the system for the two years ending October 31st, 1898, I find the receipts and expenditures to be as follows:

Huntsville Penitentiary, receipts, \$367,636.48; expenditures, \$591,738.28.

Rusk Penitentiary, receipts, \$86,869.73; expenditures, \$288,866.90.

State and Share Farms, receipts, \$203,256.60; expenditures, \$176,953.90.

Contract Farms, receipts, \$567,429.25; expenditures, \$232,461.77.

Railroad Forces, receipts, \$188,493.92; expenditures, \$82,164.92.

It is just, however, to the Huntsville penitentiary that it should be said that the salaries of the Superintendent, Financial Agent, Inspectors, and of their office subordinates are chargeable to it; also, those of the salesmen, and the expenses of the Penitentiary Board. This Penitentiary is entitled to other credits not shown in the report.

In inviting the attention of the Legislature to this subject, I do not wish to be understood as intending to reflect upon the management of these institutions. Such a purpose I expressly disclaim. The Rusk penitentiary has been, and still is, laboring under many very serious difficulties, one of which is its inability to dispose of its products rapidly and at living prices.

It will be observed from the statement given as to the receipts and expenditures that the paying branches of the system are the contract farms, the railroad forces and the State and share farms in the order named. The hiring of the convicts to private contractors and to railway companies has always been regarded as a matter of necessity and not of preference, and in this sentiment I strongly concur.

It occurs to me that the policy should be for the State to own and, with the convicts, operate its own farms, and unless the judgment of the Legislature shall be otherwise, I shall deem it my duty, so far as within my authority, to proceed upon this line. The amount and value of the products that would be realized on such farms could not and would not have an appreciable effect upon the world's markets, and for that reason there could be no competition between convict and free labor growing out of such a policy.

FREE TRANSPORTATION.

The attention of the Legislature is respectfully invited to that portion of the report of the Railroad Commission, which has reference to the allowance of free transportation by railway companies, and to the reasons given why it should be prohibited.

To the recommendation of the Commission upon this subject, I beg to add my own.

INSPECTION.

The law, creating the office of State Revenue Agent, limits the inspection by such agent of the institutions of the State to matters directly pertaining to the disbursement of public money. The Executive is charged with the duty of appointing many of the officials connected with them and is responsible for their proper conduct. So far as I am informed, he has no means under the law of ascertaining whether they are satisfactorily discharging their duties or not, unless through a personal inspection by himself. His own duties are of such a varied character that it is scarcely possible for him to give the institutions that degree of attention which their importance and his own responsibility in reference to them demands.

In the interest, therefore, of proper administration, he should have some one, vested by law with full authority, to inspect these institutions in every detail of their management whenever he may be ordered so to do, and make a report thereon. I am clearly of the opinion that the powers of the State Revenue Agent should be so enlarged as to enable him to meet this requirement. Being already invested with authority to examine into the expenditures, he can very well discharge these additional duties at but a very small expense to the State. By this means, it is believed that the administration of these institutions can be greatly improved.

THE GENERAL LAND OFFICE.

Attention is especially invited to the estimates furnished for the support of the General Land Office for the next two fiscal years. It will be perceived that the estimates are in two classes—one for the office, the other for the school land department, the former aggregating \$39,490 for each year, and the latter \$14,600 for a like period. While not informed as to the details in administration in the General Land Office, it occurs to me that under the circumstances, there should be a reclassification of the estimates, followed by a reduction of the amount asked for.

If it should be the policy of the Legislature to make good the deficit due the public school fund, then there will hardly be an acre of unlocated public domain left for any purpose other than that which constitutes a part of that fund.

The mere statement of the proposition as to a reclassification of the estimates should be sufficient without argument.

I do not favor the immediate abolition of the office, nor would I cripple its usefulness by scant appropriations, but I do favor a policy looking to such a rearrangement of its work as will lead to a material reduction in its force and at the same time leave enough to promptly and efficiently meet every proper demand upon the office. In a few years there should be no necessity for any other expense, save for a custodian of the archives and for a force for the preservation of the files and for supplying copies, to be given at a reasonable charge.

From long experience, I am fully aware of the extreme difficulty that always attends the abolition of offices and the reduction of salaries, but I have every confidence that the Legislature will be able to overcome all opposition to such character of reform when its necessity shall have become apparent.

INTEREST-BEARING INDEBTEDNESS.

The outstanding bonds of the State aggregate \$3,992,030.00, of which \$3,254,040.00 are held by special funds, and \$737,990.00 are held by individuals. These latter bonds consist of \$1,700.00, \$663,200.00, and \$73,000.00, respectively, and bear four, five, and seven per cent. interest, respectively, and are respectively due in 1899, 1909 and 1904.

I am of the opinion that provision should be immediately made, looking to the payment of the bonds now held by individuals when due, by authorizing the Governor, Comptroller and Treasurer to set aside at the end of each fiscal year, so much of the surplus funds then on hand as they may deem advisable and invest the same in other interest-bearing bonds, to constitute a sinking fund with which to meet such bonds when they shall become payable.

I am opposed to refunding them and know of no reason why they should not, with proper economy, be discharged when due through the method stated.

An interest-bearing indebtedness is a curse to any people and should never be incurred except under the most pressing circumstances. As to the bonds held by the special funds—that is, for the benefit of the permanent school, permanent University, Agricultural and Mechanical, Institution for the Blind, Deaf and Dumb

Asylum, Lunatic Asylum and Orphan Asylum funds,—the question will be as to whether it should be the policy to refund these bonds amounting to \$3,254,040, and bearing four, five, six and seven per cent. interest, so as to maintain an investment for these institutions, or to provide for their payment, trusting to find other securities. To put the question in another form: Shall the indebtedness held against the State by these institutions become perpetual, or shall it be discharged as other indebtedness in the expectation that the State will be able to obtain other securities in which to invest for the benefit of the special funds.

My opinion is that the latter policy should prevail. I would not, however, advise payment through increased taxation, but through the exercise of a proper economy, and by adding each year to an interest-bearing sinking fund until a sufficiency shall be accumulated with which to discharge the entire indebtedness.

It will be a happy day indeed, when the State will cease to owe any fund or any person, standing alone among her sister States absolutely free from all indebtedness of whatever kind.

CITY AND TOWN COURTS.

My attention has been called to the pressing need of immediate legislative action looking to the rehabilitation of the city and town courts of the State, in order that they may have the means of enforcing the laws against petty offenses made so by the Penal Code of the State.

The necessity for such action results from a conflict in opinion between the Supreme Court on the one hand and the Court of Criminal Appeals on the other.

The former tribunal has decided that the municipal courts have jurisdiction over petty offenses within the city or town limits, as declared by the State, while the latter tribunal has determined that the authority of the municipal courts extends only to the enforcement of the city or town ordinances, and that when offenses are provided for by the Penal Code of the State and also by the city or town ordinances, the latter are inoperative and that such offenses can only be prosecuted in State courts as contradistinguished from the municipal courts.

It is unnecessary that I should detail the unfortunate consequences that have resulted from this conflict of opinion. The embarrassment is great in the extreme, and the cities have become almost helpless against that character of crime by which they are generally infested.

I have to recommend such action as may commend itself to the Legislature in order to relieve the exigency.

There are other matters of importance to which I will shortly invite attention, but which, for want of time, I am now unable to present. Before concluding, however, I will avail myself of the opportunity to congratulate the Legislature and the people upon the very satisfactory and efficient administration of the public affairs by my predecessor. The record made by him is a splendid tribute to his integrity, patriotism and statesmanship, and the conditions, resulting in a great measure from his labors, leave but little for myself to do except such things as are of an administrative character.

I beg to tender to the Legislature my best efforts for the promotion of all needful legislation, and every assistance within my power to make its session easy, pleasant and successful.

JOSEPH D. SAYERS,
Governor.

HOUSE MESSAGE.

Hall of the House of Representatives,
Austin, Texas, Jan. 23, 1899.

Hon. Jas. N. Browning, President of the Senate.

I am directed by the House to inform the Senate of the passage of the following House Concurrent Resolution No. 11, Authorizing the appointment of a committee of five members of each House to arrange for the reception of Hon. Wm. J. Bryan on the occasion of his visit to the Legislature.

Respectfully,

LEE J. ROUNTREE,

Chief Clerk House of Representatives.

On motion of Senator Ross 3000 extra copies of today's Journal containing the Governor's message were ordered printed for the use of the Senators.

BILLS ON SECOND READING.

The Chair laid before the Senate,

Senate bill No. 2, A bill to be entitled "An Act to provide for the creation of level premium mutual life insurance companies in this State, and for the regulation thereof."

On motion of Senator Miller further consideration of the bill was postponed until Thursday morning after morning call.

The Chair laid before the Senate,

Senate bill No. 9, A bill to be entitled "An Act to provide for the appointment by the court of attorneys to represent absent defendants when cited by publication."

Bill read second time, and
On motion of Senator Lewis further consideration of the bill was postponed until tomorrow morning after morning call.

The Chair laid before the Senate,
Senate bill No. 26, A bill to be entitled "An Act to amend Article 2956, of the Revised Statutes of the State of Texas."

Bill read second time, and

On motion of Senator Atlee further consideration of the bill was postponed until tomorrow morning after the consideration of Senate bill No. 9.

The Chair laid before the Senate,

Senate bill No. 31, A bill to be entitled "An Act to provide a final method of publishing notices and reports required by law to be published by commissioners' courts of the various counties of the State, to be effective in all cases where said courts are unable to secure publication thereof in the manner and for the price now provided by law therefor."

Bill read second time, and

On motion of Senator Potter further consideration of the bill was postponed until tomorrow morning after the consideration of Senate bill No. 26.

Senator Atlee called up the following House Concurrent Resolution, and moved its adoption:

House Concurrent Resolution. No. 11, by Kennedy:

Resolved by the House of Representatives, the Senate concurring, that a committee of five (5) from each House be appointed to arrange for the reception of the Hon. W. J. Bryan on the occasion of his visit to the Legislature.

Adopted.

Senator Gough entered a motion to reconsider the vote by which the Senate adopted his amendment to Senate bill No. 27.

On motion of Senator Greer the Senate adjourned to 10 o'clock tomorrow morning.

ELEVENTH DAY.

Senate Chamber,

Austin, Tex., Tuesday, Jan. 24, 1899.

Senate met pursuant to adjournment.

Lieutenant-Governor Browning in the chair.

Roll called. Quorum present, the following Senators answering to their names:

Atlee.	Greer.
Burns.	Grinnan.
Dibrell.	James.
Goss.	Johnson.
Gough.	Kerr.

6—Senate

Lewis.	Ross.
Lloyd.	Sebastian.
McGee.	Stafford.
Miller.	Terrell.
Morriss.	Turney.
Neal.	Wayland.
Odell.	Yantis.
Potter.	Yett.

Absent.

Stone.

Absent—Excused.

Davidson.

Patterson.

Hanger.

Prayer by the Chaplain, Rev. Dr. Denison.

Pending the reading of the Journal of yesterday,

On motion of Senator McGee, the same was dispensed with.

EXCUSED.

On motion of Senator Terrell, Senator Yett was excused for non-attendance on yesterday on account of important business.

On motion of Senator James, Mrs. Evans, the Postmistress, was excused for last Saturday, Monday and today on account of sickness.

On motion of Senator Gough, Senator Linn was excused for today on account of important business.

COMMITTEE REPORTS.

Committee Room,

Austin, Texas, Jan. 23, 1899.

Hon. Jas. N. Browning, President of the Senate.

SIR: Your Committee on State Asylums, to whom was referred

Senate bill No. 32, being a bill to be entitled "An Act to amend Article 128, Title IX, Chapter 1, of the Revised Civil Statutes of the State of Texas, relating to the apprehension of lunatics,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it *do pass*.

MORRISS, Chairman.

Committee Room,

Austin, Texas, Jan. 23, 1899.

Hon. Jas. N. Browning, President of the Senate.

SIR: Your Committee on Engrossed Bills have carefully examined and compared

Senate bill No. 14, being "An Act to amend Subdivisions 1 and 2, Chapter 2, Title XV, Article 1093, of the Code of Criminal Procedure of the State of Texas,